

Date: October 30, 2018

## **CASCADE COUNTY PLANNING BOARD**

**ITEM:** Conservation Easement – Boyle

**ACTION REQUESTED:** Request for Comments from Cascade County Planning Board

**PRESENTED BY:** Michael Stone, Cascade County Planner

### **Review by local planning authority:**

*Pursuant to 76-6-206, MCA, "...all conservation easements shall be subject to review prior to recording by the appropriate local planning authority for the county within which the land lies... The local planning authority shall have 90 days from receipt of the proposed conveyance within which to review and to comment upon the relationship of the proposed conveyance to comprehensive planning for the area. Such comments will not be binding on the proposed grantor or grantee but shall be merely advisory in nature. The proposed conveyance may be recorded after comments have been received from the local planning authority or the local planning authority has indicated in writing it will have no comments or 90 days have elapsed, whichever occurs first."*

### **Conservation Easement Information:**

**Receipt:** September 24, 2018

**Status:** Proposed with drafted deed

**Grantor:** Jan and Rick Boyle

**Grantee:** Montana Land Reliance (MLR)

### **Subject property information:**

1. Township 20N, Range 2W, Section 18, NE1/4 NE1/4
  - Geocode: 02-3011-18-1-01-01-0000
  - Parcel No.: 0004604700
  - Zoning: Agricultural
  - Land use: Cropland and pastureland
  - Area: 40 acres

2. Township 20N, Range 2W, Section 17, NW1/4 NW1/4; SW1/4 NW1/4 LS  
1.04 ac
  - Geocode: 02-3011-17-2-02-01-0000
  - Parcel No.: 0004602800
  - Zoning: Agricultural
  - Land use: Cropland
  - Area: 78.9 acres

**Total area:** 118.9 acres

**Term of easement:** Perpetual

**Proximity to other conservation easements or other protected lands:** Two other MLR conservation easements are located within 5 miles (refer to vicinity map attachment).

**Area wildlife:** Upland game birds and deer.

**Area topography:** Sun River valley (north, west, east), Shaw Butte (south), town of Simms (west), and Rocky Mountains (west).

**Existing Development:**

- One residence used by the owners
- A second residence used as a shop.
- Two other agricultural structures located near the existing residence.

**Allowed future development and uses on the property:**

- Allows for the remodel and renovation of the existing residences (2 including the shop)
- One additional residence in a separate 2-acre building envelope that is not sited at this time.
- Property would transfer in two (2) parcels.

**Stated conservation contributions of the easement:**

1. *“The Property includes significant open-space land as defined in the Montana Open Space Land and Voluntary Conservation Easement Act, Montana Code Annotated (MCA) Section 76-6-101, et seq.; and”*
2. *“Preservation of the Protected Property by this Easement will yield significant public benefits to the people of the State of Montana, Cascade County, and the United States by protecting, preserving, and providing the following significant resources, in perpetuity, in compliance with Section*

*170(h)(4)(A) of the Internal Revenue Code and Sections 76-6-101, et seq., MCA.”*

- a. “Open space lands which maintain the rural, agricultural, and natural scenic qualities of the area and provide opportunities to continue traditional farming and ranching practices in perpetuity, as encouraged and supported by federal tax policies including Section 170(b)(1)(E) of the Internal Revenue Code, and clearly delineated land conservation policies of the federal government and of the State of Montana, and local land conservation policies adopted in Cascade County, Montana...”*
- b. “The property can be easily seen from Highway 200, the major route through the Sun River Valley from Great Falls, Montana, through the northern Rocky Mountains, and the protection of this landscape will provide public benefits by ensuring the open space will remain relatively undisturbed by prohibiting residential subdivision on the Property in perpetuity, and in particular in conjunction with the expansion of the community of Simms, Montana, which is located less than one mile away; and”*
- c. “Preservation of the Property’s open-space character will also benefit wildlife, such as deer, upland birds which use the Property, along with western interior birds such as songbirds, owls, and hawks.”*

#### **Relationship with Cascade County Growth Policy:**

Staff interprets the proposed conservation easement as primarily facilitating the following Cascade County Growth Policy goals and objectives:

1. Goal 2, Objective A: “Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.
  - a. The limitation on land transfer to two parcels and residential development ensures that the 120 acre area will remain a two parcel and no more than three residence area.
2. Goal 9, Objective A: “Encourage cooperation between new development and agricultural/forestry operations.”
  - a. Deed stipulations ensure cooperation between interests of the agricultural working landscape and limited residential development.
3. Goal 11, Objective A: “Preserve the county’s open space setting by encouraging cluster development.”

- a. The limitation of development to the proposed envelopes ensure development is concentrated to the Existing Building Envelope or a second development envelope approved in writing by the grantee.

Staff interprets the proposed conservation easement as primarily detrimental to the following Cascade County Growth Policy goals and objectives:

1. Goal 3, Objective A: "Protect the most productive soils."
  - a. The subject properties are irrigated and have been identified as prime farmland if irrigated. Therefore, the allowance for additional residential development, as opposed to allowing none, acts against protecting the most productive soils in the county.

## **Conclusion**

The proposed conservation easement provides strong support for Cascade County Growth Policy Goals 2, 9, and 11. However, the allowance for further residential development is not optimal for Goal 3. Staff will forward any comments that the Planning Board has to the grantee.

Attachments: Vicinity Map, Property Map, Development Map, Prime Farmland Map